IN THE HIGH COURT OF JUDICATURE AT PATNA
CWJC No.6583 of 1990

1. BIRENDRA PRASAD SINGH
2. PRABHAT KUMAR SINGH BOTH S/O SATYA NARAYAN SINGH, R/O VILLAGE- BARHMAUL PS. NANPUR, DISTT- SITAMARHI--- PETITIONERS

Versus

1. THE STATE OF BIHAR THROUGH THE COLLECTOR,MUZAFFARPUR
2. SHAIL KUMARI DEVI W/O SRI NARENDRA KUMAR SINGH, R/O VILLATE- KOKILWARA, PS. AURAI, DISTT.- MUZAFFARPUR, AT PRESENT RESIDING AT SEIKHPURA, SADHU GACHI, AKHARAGHAT, PS. AHIYAPUR- MUZAFFARPUR----- RESPONDENTS

For the Petitioners: Mr. Ratnesh Nandan Sinha,Advocate
For the State: Mr. Anil Kumar Verma, JC to SC-3

5 11.12.2008 Challenge is to the order dated 16.7.1990 contained in annexure-1. By virtue of this order the deed of transfer dated 15.4.1976 has been declared void under section 32 of Bihar Consolidation of Holdings & Prevention of Fragmentation Act when a fine of Rs. 150/- was also imposed.

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Learned counsel for the petitioners submits that in the same matter against the order of Consolidation Officer a separate writ application was filed which was CWJC No. 4300 of 1986. The Court was pleased to record that if the notification under section 10(1) of the Consolidation Act was issued prior to the deed of gift in question then no relief can be granted in favour of the petitioners. But if the notification was issued after 15th April, 1976, then the said transfer cannot be said to be bad in law.

A supplementary affidavit has been filed by the petitioners and they have brought the order dated 22.10.2001 on record which has been passed by the Director, Consolidation with regard to the matter. There is categorical finding that the instant notification has been issued three years after the deed of transfer.

In that view of the matter, the order dated 16.7.1990 contained in annexure-1 is quashed and this writ application is allowed.

RPS (Ajay Kumar Tripathi,J.)

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